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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,498	09/19/2003	Frederick James Diggle III	030489	8960

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KIRKPATRICK & LOCKHART LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

EXAMINER

GRANT, ALVIN J

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/666,498	DIGGLE ET AL.	
	Examiner	Art Unit	
	Alvin J Grant	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/19/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the multi-sided key shaft" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 18, the word "means" is followed by the word(s) "for torquing" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 12-14 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Macor '094.

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Macor discloses a multipurpose hand tool comprising: a socket body including a first socket at a first end of the socket body and a second socket connected to a second end of the socket body, and a shaft connected to the socket body; the shaft arm is connected perpendicular to a longitudinal axis of the socket body; the socket body is cylindrical; the shaft arm includes a multi-sided key shaft arm; the first socket defines a first opening for receiving a first fastener to be turned by the tool, and the second socket defines a second opening for receiving a second fastener to be turned by the tool, wherein the size of the first opening does not equal the size of the second opening; the socket is detachably connected to the socket body (column 3, line 68-column 4, line 2); the first socket includes a self-forming socket; the shaft arm is cast to the socket body; the socket body is cylindrical, and a shaft arm connected to the socket body such that the shaft arm extends radially from the socket body; the shaft arm is connected to a longitudinal center of the socket body; and the size of the first opening does not equal the size of the second opening.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macor in view of Tuttle '438.

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Macor is described above. Macor does not specifically disclose a hexagonal-shaped handle. Tuttle discloses a wrench comprising a hexagonal handle so as to provide the capability of engaging the head of fasteners having female hexagonal-shaped slots. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the wrench of Macor to have an hexagonal-shaped handle as taught by Tuttle so as to provide the capability of engaging the head of fasteners having female hexagonal-shaped slots.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macor in view of Tuttle and in further view of Hlinka '503.

Macor as modified is described above. The modified Macor does disclose the head of the tool being welded to the handle. Hlinka discloses a socket with a handle welded to its top (column 1, line 47) so as to obtain a structurally sound joint. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have welded the head of the of Macor's wrench to the handle as taught by Hlinka so as to obtain a structurally sound joint.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Grant whose telephone number is (703) 305-3315. The examiner can normally be reached on Mon-Fri 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on (703) 308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ajg

A handwritten signature in black ink, appearing to read "Joseph J. Hail, III". The signature is fluid and cursive, with a stylized "H" and a small "III" at the end.

Joseph J. Hail, III
Supervisory Patent Examiner
Technology Center 3700